



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART VIII

#### APPEALS FROM SOLEMN PROCEEDINGS

##### [<sup>F1</sup>121A Suspension of certain sentences pending determination of appeal.

- (1) Where an intimation of intention to appeal or, in the case of an appeal under section 106(1)(b) to (e) <sup>F2</sup>[<sup>F3</sup> ... ], 108 or 108A of this Act, a note of appeal is lodged, the court may on the application of the appellant direct that the whole, or any remaining part, of a relevant sentence shall be suspended until the appeal, if it is proceeded with, is determined.
- (2) Where the court has directed the suspension of the whole or any remaining part of a person's relevant sentence, the person shall, unless the High Court otherwise directs, appear personally in court on the day or days fixed for the hearing of the appeal.
- (3) Where a person fails to appear personally in court as mentioned in subsection (2) above, the court may—
  - (a) if he is the appellant—
    - (i) decline to consider the appeal; and
    - (ii) dismiss it summarily; or
  - (b) whether or not he is the appellant—
    - (i) consider and determine the appeal; or
    - (ii) make such other order as the court thinks fit.
- (4) In this section “relevant sentence” means any one or more of the following—
  - [<sup>F4</sup>(aa) a community payback order;]
  - (d) a restriction of liberty order.]
- [<sup>F5</sup>(5) Subsections (1), (2) and (4) above apply to an appeal under [<sup>F6</sup>section 288AA of this Act or] paragraph 13(a) of Schedule 6 to the Scotland Act 1998 and, in relation to such an appeal—

*Status: Point in time view as at 16/08/2013.*

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 121A is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) references to an appeal being determined are to be read as references to the disposal of the proceedings by the High Court following determination of the appeal; and
  - (b) the reference in subsection (2) to the hearing of the appeal is to be read as a reference to any subsequent hearing in the High Court in relation to the proceedings.
- (6) Where a person fails to appear personally in court as mentioned in subsection (2) as read with subsection (5) above, the court may make such order as it thinks fit.]

#### Textual Amendments

- F1** S. 121A inserted (1.8.1997 for specified purposes otherwise and 1.7.1998) by 1997 c. 48 , **s. 24(1)** ; S.I. 1997/1712 , **art. 3** , **Sch.** (subject to arts. 4 , 5 ) ; S.I. 1997/2323 , **art. 5(1)**
- F2** Words in s. 121A(1) repealed (28.2.2011) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), s. 101(2), **sch. 4 para. 19** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 5(1))
- F3** Words in s. 121A(1) inserted (10.1.2005) by Protection of Children (Scotland) Act 2003 (asp 5) , **ss. 16(5)** , 22(2) ; S.S.I. 2004/522 , **art. 2**
- F4** S. 121A(4)(aa) substituted for s. 121A(4)(a)-(c) (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) , ss. 14(2) , 206(1) , **Sch. 2 para. 10** ; S.S.I. 2010/413 , **art. 2** , Sch. (with art. 3 )
- F5** S. 121A(5)(6) inserted (6.5.1999) by S.I. 1999/1042 , arts. 1(2)(a) , 3 , **Sch. 1 Pt. I para. 13(4)**
- F6** Words in s. 121A(5) inserted (22.4.2013) by Scotland Act 2012 (c. 11), **ss. 36(10)**, 44(5); S.I. 2013/6, art. 2(c)

**Status:**

Point in time view as at 16/08/2013.

**Changes to legislation:**

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